

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GREGORY J. SOAPES,

Plaintiff,

VS.

J. PAVOE, et al.,

Defendants.

3:05-CV-1273-RCJ-GWF

ORDER

This matter comes before the Court on Defendants’ Motion to Dismiss or, in the alternative, Motion for Summary Judgment (#34). Plaintiff, an inmate formerly incarcerated at Nevada’s High Desert State Prison (“HDSP”), brings a 42 U.S.C. § 1983 action against prison officials for violations of his First, Eighth, and Fourteenth Amendment rights. The Court has considered the motions and the pleadings on file. Pursuant to the following analysis, Defendants’ Motion to Dismiss and/or Summary Judgment is *granted*.

BACKGROUND

Plaintiff Gregory J. Soapes, pleading pro se, seeks injunctive relief and damages for alleged violations of his First, Eighth and Fourteenth Amendment rights. In Count I of his Complaint, Plaintiff alleges that Defendant Pavao (erroneously named as “J. Pavoe”) retaliated against Plaintiff after Plaintiff indicated his intent to assert his First Amendment right to file a grievance against Defendant Pavao. (*See* #23-1 at 4-5.) Plaintiff claims that he was in the prison’s law library on November 29, 2004, making copies and mailing out documents. (*Id.* at

1 4.) Though he was not on the access list, Plaintiff used the law library for about an hour. (*Id.*
2 at 4-5.) When Plaintiff sought to log his mail on the prison mail log, Defendant Pavao objected
3 and told Plaintiff that he would need to sign up on the following week's access list if he wanted
4 to have "legal mail logged and copied." (*Id.* at 4.) Plaintiff stated that he would file grievances
5 against that policy as he believed the policy should be to allow law library access "when
6 necessary." (*Id.* at 4.) Defendant Pavao then ordered Plaintiff to leave the library with an escort.
7 (*Id.* at 4.) Plaintiff failed to obey and instead asked for permission to stay in the library,
8 eventually becoming belligerent. Plaintiff claims that Defendant Pavao "yelled that he was
9 having plaintiff removed from the law library and put in a holding cell to 'teach plaintiff a
10 lesson.'" (*Id.* at 4.) Plaintiff alleges he was then taken to a holding cell for 31 hours. (*Id.* at 5.)

11 Plaintiff argues that Defendant Pavao's actions violate his First and Fourteenth
12 Amendment rights. Specifically, Plaintiff alleges that Defendant Pavao violated his First
13 Amendment right "to petition for redress of grievances without being retaliated against." (*Id.*
14 at 5.) He alleges further that his Fourteenth Amendment due process rights were violated
15 because Defendant Pavao's actions "harmed plaintiff and [were] not narrowly tailored to advance
16 a legitimate correctional goal." (*Id.* at 5.)

17 In Count II of his complaint, Plaintiff alleges that Defendant Provencal (erroneously
18 named as "Lt. Prevencial") violated his First Amendment right to file grievances, his Eighth
19 Amendment right to be protected against cruel and unusual punishment, and his Fourteenth
20 Amendment due process rights. (*Id.* at 5.) Specifically, Plaintiff alleges that a corrections officer
21 under Defendant Provencal "refused to bring a grievance form" to Plaintiff while Plaintiff was
22 in the holding cell, despite Plaintiff's requests. (*Id.* at 5.) Additionally, Plaintiff claims he was
23 subjected to cruel and unusual punishment by being placed in a holding cell "for 31-hours in a
24 bare-concrete floored cell with no bedding on the coldest day recorded in Nevada history.

1 Plaintiff was also denied food, hygiene items, i.e., toothbrush, toothpaste, soap, [and] towel.”
2 (*Id.* at 3.) Plaintiff claims he was finally provided with a mattress without bedding at 3:30 or
3 4:00 a.m., some nineteen hours after he was placed in the holding cell. (*Id.* at 5.) Plaintiff
4 alleges that he remained in the holding cell until about 4:00 p.m., a total of about thirty-one
5 hours. (*Id.* at 5.) Finally, Plaintiff claims that Defendant Provencal violated his Fourteenth
6 Amendment due process rights.

7 On October 21, 2005, Plaintiff filed a Civil Rights Complaint Pursuant to 42 U.S.C. §
8 1983 against Defendants. (#23.) In an Order filed March 23, 2006, Counts 3 and 4 of the
9 Complaint were dismissed *sua sponte*. (#9.) Plaintiff appealed the Court’s Order to the Ninth
10 Circuit on April 23, 2006, and the Ninth Circuit dismissed Plaintiff’s appeal on July 10, 2006,
11 for lack of jurisdiction. (#15, #26.) Defendants now bring a Motion to Dismiss and/or Summary
12 Judgment under Rule 12(b)(6) and Rule 56, alleging that the Plaintiff’s remaining claims lack
13 evidentiary support and fail as a matter of law. (#34.)

14 DISCUSSION

15 I. Legal Standards of Review

16 A. Summary Judgment Standard

17 If a motion to dismiss presents matters outside of the pleadings, the motion shall be
18 treated as one for summary judgment. Fed. R. Civ. P. 12(b)(6). Because Defendants’ Motion
19 to Dismiss presents matters outside of the pleadings, the Court will treat it as a motion for
20 summary judgment pursuant to Fed. R. Civ. P. 56.

21 The purpose of summary judgment is to avoid unnecessary trials when there is no dispute
22 as to the material facts before the court. *Northwest Motorcycle Ass'n v. U.S. Dep't of Agric.*, 18
23 F.3d 1468, 1471 (9th Cir. 1994). The moving party is entitled to summary judgment as a matter
24 of law where, viewing the evidence and the inferences arising therefrom in favor of the non-

1 movant, there are no genuine issues of material fact in dispute. Fed. R. Civ. P. 56©; *Bagdadi*
2 *v. Nazari*, 84 F.3d 1194, 1197 (9th Cir. 1996). A material issue of fact is one that affects the
3 outcome of the litigation and requires a trial to resolve the differing versions of the truth. See
4 *S.E.C. v. Seaboard Corp.*, 677 F.2d 1301, 1305-06 (9th Cir. 1982). Where reasonable minds
5 could differ on the material facts at issue, summary judgment is not appropriate. *Warren v. City*
6 *of Carlsbad*, 58 F.3d 439, 441 (9th Cir. 1995).

7 As summary judgment allows a court to dispose of factually unsupported claims, the
8 court construes the evidence in the light most favorable to the nonmoving party. *Bagdadi*, 84
9 F.3d at 1197. Although allegations of a pro se complainant are held to less stringent standards
10 than formal pleadings drafted by lawyers, *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per
11 curiam), he “does not escape the essential burden under summary judgment standards of
12 establishing that there is a genuine issue as to a fact material to his case to avert summary
13 judgment.” *Escobar v. Crosby*, 363 F. Supp. 2d 1361, 1364 (S.D. Fla. 2005).

14 **B. Additional Burden for Prisoners Seeking Permanent Injunctive Relief Against**
15 **Prison Officials Under the Prison Litigation Reform Act (“PLRA”)**

16 If an inmate’s lawsuit contains a prayer for permanent injunctive relief against prison
17 officials, the inmate must satisfy an additional burden to overcome a motion for summary
18 judgment, as imposed by the PLRA, which is codified at 18 U.S.C. § 3626. Specifically, the
19 statute provides:

20 The court shall not grant or approve any prospective relief unless the court finds that such
21 relief is narrowly drawn, extends no further than necessary to correct the violation of the
22 Federal right, and is the least intrusive means necessary to correct the violation of the
Federal right. The court shall give substantial weight to any adverse impact on public
safety or the operation of a criminal justice system caused by the relief.

23 18 U.S.C. § 3626(1)(A). The Court has considered these additional factors as to Plaintiff’s claim
24 for injunctive relief under the RLUIPA.

1 **II. Legal Analysis**

2 To succeed on a § 1983 action, Plaintiff must prove: (1) the Defendants' conduct was
3 committed under color of state law; and (2) the conduct deprived Plaintiff of his constitutional
4 rights. *West v. Atkins*, 487 U.S. 42, 48 (1988). He must also show that Defendants lack qualified
5 immunity for their actions. In this case, Plaintiff alleges that Defendants violated his: (1) First
6 Amendment right to file a grievance; (2) Fourteenth Amendment rights of access to the law
7 library and logged mail; and (3) Eighth Amendment right to be free from cruel and unusual
8 punishment. In his Complaint, Plaintiff indicated he was seeking damages from both Defendants
9 in their individual capacity only, which makes his request for damages procedurally valid. *See,*
10 *e.g., Carey v. Nevada Gaming Control Board*, 279 F.3d 873, 879 (9th Cir. 2002) (noting that
11 damages are not available against state officers sued in their official capacities).

12 Defendants argue that they are protected by qualified immunity because Plaintiff has
13 failed to bring evidence adequately supporting his claims of alleged constitutional deprivations.
14 In *Saucier v. Katz*, the Supreme Court held “[q]ualified immunity is an entitlement not to stand
15 trial or face the burdens of litigation.” 533 U.S. 194, 200-01 (2001). A defendant acting under
16 color of state law is entitled to qualified immunity if: (1) the defendant did not deprive Plaintiff
17 of a constitutional right; or (2) the right was not clearly established and the defendant acted in
18 an objectively reasonable manner given the circumstances. *Id.*

19 In analyzing whether Plaintiff's constitutional rights were violated, it should first be
20 noted that while prisoners maintain constitutional rights, these rights are limited by legitimate
21 correctional needs. “Admittedly, prisoners do not shed all constitutional rights at the prison gate,
22 but lawful incarceration brings about the necessary withdrawal or limitation of many privileges
23 and rights, a retraction justified by the considerations underlying our penal system.” *Sandin v.*
24 *Conner*, 515 U.S. 472, 485 (1995). Additionally, “[d]iscipline by prison officials in response to
25

1 a wide range of misconduct falls within the expected parameters of the sentence imposed by a
2 court of law.” *Id.* “[C]entral to all other corrections goals is the institutional consideration of
3 internal security within the corrections facilities themselves.” *Pell v. Procunier*, 417 U.S. 817,
4 823 (1974). “The administration of a prison is at best an extraordinarily difficult undertaking.”
5 *Hudson v. Palmer*, 468 U.S. 517, 526-27 (1984). Accordingly, “federal courts ought to afford
6 appropriate deference and flexibility to state officials trying to manage a volatile environment.”
7 *Sandin*, 515 U.S. at 482.

8 **A. First Amendment Claims**

9 **1. Retaliation Claim**

10 Plaintiff first alleges that Defendant Pavao retaliated against Plaintiff’s expressed intent
11 to exercise his First Amendment right to file grievances. Plaintiff claims that Defendant Pavao
12 retaliated against Plaintiff by: (1) placing Plaintiff in a holding cell after he threatened to file
13 grievances, and (2) denying Plaintiff access to the law library. In addition to showing a First
14 Amendment violation, “a successful retaliation claim requires a finding that the prison
15 authorities’ retaliatory action did not advance legitimate goals of the correctional institution or
16 was not tailored narrowly enough to achieve such goals.” *Pratt*, 65 F.3d at 806.

17 It is well established that inmates in the prison systems of the United States have the right
18 to use and access the prison’s law library. *See Lewis v. Casey*, 518 U.S. 343, 346 (1996); *Bounds*
19 *v. Smith*, 430 U.S. 817, 821 (1977). Nevertheless, “the Constitution does not guarantee a
20 prisoner unlimited access to a law library.” *Lindquist v. Idaho State Bd. of Corrections*, 776 F.2d
21 851, 858 (9th Cir. 1985). The right of access is subject to reasonable restriction, especially
22 where such restrictions are imposed for security reasons. *Toussaint v. McCarthy*, 801 F.2d 1080,
23 1109-10 (9th Cir. 1986) *cert. denied* 481 U.S. 1069 (1987). Prison administrators are free to
24

1 define their own procedures for prisoners' use of their respective law libraries. *See Sandin*, 515
2 U.S. at 482.

3 Defendants assert that the prison's procedures, including those dealing with the law
4 library, "are in place to ensure the safety and security of the administration." (#34 at 3.)
5 According to Defendant Pavao, who was employed as the Law Library Supervisor at the HDSP,
6 "there is no regulation in place that would require logging Inmate's mail." (*Id.* at 32.) He
7 testified further that access to the law library "is restricted to authorized personnel and inmates
8 on the access list." (*Id.* at 32.) This policy exists for two reasons: (1) the capacity of the prison's
9 law library is limited, and (2) there is no mixing of custody level of the inmates who have access
10 to the law library. (*Id.* at 13.) Defendant Pavao has adequately established that there are
11 legitimate correctional goals with respect to regulating use of the law library.

12 **a. Retaliation by Placement in Holding Cell**

13 Plaintiff alleges that Defendant Pavao retaliated against him by having him placed in
14 detention. (#23-1 at 27.) The facts, even as alleged by Plaintiff, do not bear this out. Although
15 Plaintiff claims that he had requested access to the law library for November 29, 2004, Plaintiff
16 admits that he was not on the access list that day. (*Id.* at 4, 6.) It was therefore reasonable and
17 legitimate for Defendant Pavao to request that Plaintiff leave the law library because he was not
18 authorized to be there. Furthermore, Defendant Pavao only had Plaintiff placed in a holding cell
19 after Plaintiff refused to leave the law library when ordered to do so. Therefore, although
20 Plaintiff claims he was placed in a holding cell as a result of Plaintiff exercising his First
21 Amendment rights, he has not produced sufficient evidence to survive a motion for summary
22 judgment.

23 Based on the foregoing, the Court finds that Plaintiff cannot show that Defendant Pavao's
24 actions were not made in pursuance of a legitimate correctional goal and that his actions were

1 not tailored narrowly enough to achieve such goals. Therefore, because Plaintiff has not
2 adequately plead facts and presented evidence supporting the retaliation violation, Defendant
3 Pavao is entitled to qualified immunity pursuant on this claim.

4 **b. Retaliation by Denial of Law Library Access**

5 Plaintiff alleges additional retaliation by claiming that Defendant Pavao denied Plaintiff
6 access to the law library after the incident on November 29, 2004. Plaintiff has asserted that
7 Defendant Pavao's actions violated his right to use the prison law library. Specifically, Plaintiff
8 states that Defendant Pavao "further retaliated against me by not scheduling me for law library
9 for week of 11-29-06, and scheduling me for only 1-one morning am session for the week of
10 December 6, 2004 which was canceled." (*Id.* at 30.) Although it is clearly established law that
11 a prisoner may not be totally denied access to a law library, it is not clear that a withholding of
12 that privilege for a week, or even two weeks, is a violation of that right. Because Plaintiff fails
13 to demonstrate that it is clearly established law that a prisoner cannot be denied access to a law
14 library for one or even two weeks, his claim fails under *Saucier*. His claim also fails under the
15 *Pratt* analysis because Plaintiff cannot prove that Defendant Pavao's actions were not in
16 furtherance of legitimate correctional goals.

17 **2. Denial of Right to File Grievances**

18 In Count II of his Complaint, Plaintiff claims that Defendant Provencal violated his First
19 Amendment right to file grievances after he requested, but was not provided with, a grievance
20 form while he was in the holding cell. The Ninth Circuit has held that "a prisoner has no
21 constitutional right to prison grievance procedures." *Mann v. Adams*, 855 F.2d 639, 640 (9th Cir.
22 1988), *cert. denied*, 488 U.S. 898 (1988).

23 Plaintiff's claim that his First Amendment right to file grievances was violated fails.
24 First, Plaintiff's argument fails because Plaintiff does not have a constitutional right to prison

1 grievance procedures. Second, even if there was a constitutional right to file prison grievances,
2 by his own admission he filed an informal grievance, a first and second level grievance, and he
3 does not allege that his right to file grievances was denied after he was removed from the holding
4 cell. (#23-1 at 3.) It is apparent that Plaintiff was able to file grievances two days after his
5 release, as evidenced by an exhibit to his Complaint. (*Id.* at 35.) Therefore, this claim must be
6 dismissed.

7 **B. Eighth Amendment Claim**

8 Plaintiff claims that his Eighth Amendment rights were violated by his 31-hour
9 placement in a holding cell. The Eighth Amendment guarantees that “cruel and unusual
10 punishments [shall not be] inflicted.” U.S. CONST. amend. VIII. “[O]nly the unnecessary and
11 wanton infliction of pain . . . constitutes cruel and unusual punishment.” *Whitley v. Albers*, 475
12 U.S. 312, 319 (1986). To prove cruel and unusual punishment, a prisoner must demonstrate
13 “extreme deprivations.” *Hudson v. McMillian*, 503 U.S. 1, 9 (1992). Unnecessary and wanton
14 inflictions of pain include those that are “totally without penological justification.” *Gregg v.*
15 *Georgia*, 428 U.S. 153, 183 (1976). Prisoners challenging the conditions of their confinement
16 under the Eighth Amendment must show “deliberate indifference” by the responsible officials.
17 *Wilson v. Seiter*, 501 U.S. 294, 301-03 (1991).

18 The courts have not established a protectable interest in remaining free from
19 administrative segregation. *Gotcher v. Wood*, 122 F.3d 39, 39 (9th Cir. 1997). However, the
20 conditions of administrative segregation must be such that “[p]rison officials may not deprive
21 prisoners of the basic necessities of life.” *Hoptowit v. Ray*, 682 F.2d 1237, 1258 (9th Cir. 1982).
22 “Prison officials must provide all prisoners with adequate food, clothing, shelter, sanitation,
23 medical care, and personal safety,” and to “deprive prisoners in isolation, segregation, or
24 protective custody of any of these violates the Eighth Amendment.” *Id.* However, “[t]he

1 circumstances, nature, and duration of a deprivation of . . . necessities must be considered in
2 determining whether a constitutional violation has occurred.” *Johnson*, 217 F.3d at 731.

3 In this case, Plaintiff claims he was placed in administrative segregation “for 31-hours
4 in a bare-concrete floored cell with no bedding on the coldest day recorded in Nevada history.
5 Plaintiff was also denied food, hygiene items, i.e., toothbrush, toothpaste, soap, [and] towel.”
6 (#23-1 at 3.) Plaintiff’s claim fails on two fronts. First, Plaintiff fails to bring sufficient
7 admissible evidence to support an Eighth Amendment violation. The only support Plaintiff
8 provides are his own two affidavits (#23-1 at 13, and #36 at 33) and the affidavits of two fellow
9 prisoners (#23-1 at 16-23). As for Plaintiff’s affidavits, they are characterized by a lack of
10 foundation, conclusory allegations, and hearsay. Additionally, Plaintiff has failed to adequately
11 establish that he suffered an infliction of pain, and that prison officials were deliberately
12 indifferent to his suffering. There is no evidence that he was deprived of “adequate food,
13 clothing, shelter, sanitation, medical care, and personal safety” for a significant period of time.
14 *Johnson*, 217 F.3d at 731. Notwithstanding that Plaintiff’s version of the facts differs from that
15 of Defendants, he must go beyond the pleadings and bring adequate admissible evidence to
16 create a genuine issue of material fact worthy of denying summary judgment. Plaintiff has failed
17 to fulfill this burden.

18 Second, even if Plaintiff were to create a question of material fact as to whether his
19 version of the facts is correct, he additionally fails to show that the law was so clearly established
20 that Defendant’s should have known that the conditions of Plaintiff’s confinement violated the
21 Eighth Amendment. Under the Eighth Amendment, Plaintiff has the heavy burden of showing
22 “extreme deprivation” that are “totally without penological justification.” *See Hudson*, 503 U.S.
23 at 9; *Gregg*, 428 U.S. at 183. Under the facts alleged, it is not clear that Defendants should have
24

1 known they were violating clearly established rights in placing Plaintiff in the holding cell.
2 Therefore, Plaintiff's Eighth Amendment violation fails.

3 C. Fourteenth Amendment Claims

4 Plaintiff claims that his Fourteenth Amendment rights were violated by his removal from
5 the law library and placement in a holding cell. The Procedural Due Process Clause of the
6 Fourteenth Amendment protects citizens from the government depriving them of liberty interests
7 without affording a process wherein the citizen can be heard. "The fundamental requirement of
8 due process is the opportunity to be heard." *Parratt v. Taylor*, 451 U.S. 527, 540 (1981). In
9 procedural due process claims, "the deprivation by state action of a constitutionally protected
10 interest . . . is not itself unconstitutional; what is unconstitutional is the deprivation of such an
11 interest without due process of law." *Florida Prepaid Postsecondary Education Expense Board*
12 *v. College Savings Bank*, 527 U.S. 627, 642-43 (1999).

13 However, "the fact that prisoners retain rights under the Due Process Clause in no way
14 implies that these rights are not subject to restrictions imposed by the nature of the regime to
15 which they have been lawfully committed . . . [T]here must be mutual accommodation between
16 institutional needs and objectives and the provisions of the Constitution that are of general
17 application." *Wolff v. McDonnell*, 418 U.S. 539, 556 (1974) (citations omitted); *see also Sandin*
18 *v. Conner*, 515 U.S. at 478 ("Wolff's contribution . . . derive[s] . . . from its intricate balancing
19 of prison management concerns with prisoners' liberty in determining the amount of process
20 due.").

21 The necessary predicate to a due process claim is a deprivation of a protected interest.
22 In general, "administrative segregation is the sort of confinement that inmates should reasonably
23 anticipate receiving at some point in their incarceration." *Hewitt v. Helms*, 459 U.S. 460, 468
24 (1983). Such confinement therefore does not typically implicate a protected liberty interest. In

1 *Sandin*, however, the Supreme Court held that administrative segregation may implicate a liberty
2 interest protected by the Due Process Clause if it “imposes [an] atypical and significant hardship
3 on the inmate in relation to the ordinary incidents of prison life,” or if it inevitably increases the
4 duration of the sentence imposed. 515 U.S. at 484, 487.

5 Plaintiff alleges in Counts I and II that Defendants violated his procedural due process
6 rights. First, with respect to Count I, Plaintiff alleges that Defendant Pavao’s actions in having
7 Plaintiff removed from the library “harmed plaintiff and [were] not narrowly tailored to advance
8 a legitimate correctional goal.” (#23-1 at 5.) The Associate Warden of Operations at the HDSP
9 testified that “there is no regulation in place that would require (sic) to log Inmate’s mail” and
10 that access to the prison’s law library “is restricted to . . . inmates on the access list.” (#34 at 28,
11 31-32.) By his own admission, Plaintiff used the law library even though he was “not on the
12 access list,” and he did not immediately obey when he was ordered to leave. (#23-1 at 4.)
13 Plaintiff provides no evidence that a protected liberty interest was denied. The administrative
14 segregation in this reasonable given the circumstances and the prison’s need to maintain prison
15 safety. Therefore, Plaintiff’s Due Process claim fails.

16 **D. Lack of Standing as to “Similarly Situated Prisoners”**

17 Plaintiff seeks injunctive relief for himself and “similarly situated prisoners.” (#23-1 at
18 10.) Because Plaintiff is not an attorney and has no license to practice law in Nevada or
19 elsewhere, he has no authority to appear as an attorney for others. *Lebron v. Commissioner John*
20 *Armstrong*, 289 F. Supp. 2d 56, 58-59 (D. Conn. 2003). Additionally, Plaintiff lacks standing
21 to bring claims alleging misconduct directed at other prisoners. *Martin v. Sargent*, 780 F.2d
22 1334, 1337 (8th Cir. 1985); *Rose v. City of Los Angeles*, 814 F. Supp. 878, 881 (C.D. Cal. 1993).
23 Therefore, Plaintiff cannot represent the interests of other inmates.
24
25

E. Injunctive Relief

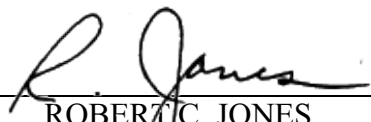
Plaintiff, in his Complaint, seeks injunctive relief against Defendants. (*Id.* at 11.) Specifically, Plaintiff asks the Court to order Defendants to refrain from depriving Plaintiff “of basic necessities, food, clothing and grievance forms.” (*Id.* at 11.) However, Plaintiff was transferred from the HDSP and is currently incarcerated at the Florence Correctional Center in Florence, Arizona. (#34 at 23.) Courts have held that when an inmate is transferred or otherwise leaves a correctional institution, a claim for equitable relief is moot because he is no longer subject to the same conditions of confinement. *Darring v. Kincheloe*, 783 F.2d 874, 876 (9th Cir. 1986); *Wiggins v. Rushen*, 760 F.2d 1009, 1011 (9th Cir. 1985); *Martin v. Sargent*, 780 F.2d 1334, 1337 (9th Cir. 1985).

Therefore, Plaintiff’s transfer from HDSP moots any claim for injunctive relief because he is no longer subject to the same conditions of confinement at HDSP.

CONCLUSION

Pursuant to the foregoing analysis, IT IS HEREBY ORDERED that Defendants’ Motion to Dismiss/Motion for Summary Judgment (#22) is *granted*. Defendants have demonstrated that they acted reasonably and according to compelling state interests in disciplining Plaintiff for failure to leave the law library, and Plaintiff has failed to meet his burden to set forth specific facts showing that there is a genuine issue of material fact for trial

DATED: September 11, 2007



ROBERT C. JONES
UNITED STATES DISTRICT JUDGE